IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

ORDER

Madan Lal vs. State of Rajasthan & Ors.
(S.B.C. Writ Petition No. 2542/03)

Date of Order :- 15th December, 2006

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Mr. K.R.Dewal, Advocate for the petitioner.
Mr.Rameshwar Dave, Dy.Government Advocate.

BY THE COURT :

This writ petition has been filed by the petitioner against the order dated 4.12.2002 whereby he was removed from service on the ground that he secured employment on the basis of a caste certificate claiming of scheduled tribe whereas in fact he is a member of the other backward community and not scheduled tribe. While the petitioner claims that he is "Bheel" by caste which comes in the scheduled tribe category, the case of the respondent is that petitioner is by caste "Rangasami" which has been notified as other backward class by the notification issued by the State Government on 6.11.1999.

Learned counsel for the petitioner argued that

"Rangasami" has never been an independent community but it is only a sub caste of "Bheel" which has already been included in the list of scheduled tribe community. So far as notification dated 6.11.1999 issued by the State Government is concerned, at serial no. 8 thereof what has been included is "Rangaswami(Adbhopa)" and not "Rangasami". Learned counsel for the petitioner while citing the judgment of Hon'ble Supreme court in Kumari Madhuri Patil & Anr. vs. Additional Commissioner, Tribal Development and ors., 1994(5) SLR p.207 argued that even if the respondents wanted to cancel the caste certificate of the petitioner, they should have conducted enquiry by giving opportunity to him in accordance with the procedure evolved by the said judgment.

Mr. Rameshwar Dave, learned Deputy Government Advocate argued that "Rangasami" was never a sub caste of "Bheel" community and therefore it could not be treated as scheduled tribe. Even in revenue records, this has not been shown as scheduled tribe as part of "Bheel" community so much so that persons belonging to this caste have been freely selling their land to other persons of general category even though transfer of land owned by scheduled tribe to general caste was barred by Section 42-A of the Rajasthan Tenancy Act. The respondents have placed on record copies of

certain mutations to substantiate their point.

I have heard Mr. K.R.Dewal, learned counsel for the petitioner and Mr. Rameshwar Dave, Dy.Government Advocate and perused the record.

Having gone through the record, I find that although the petitioner was able to secure appointment on the post of Compounder claiming himself to be scheduled tribe but Collector, Pali by the impugned order passed in respect of as many as 14 such persons who secured appointment in various government departments clarified that they were not scheduled tribe and their appointment on the basis of forged certificate was illegal. It is this order which the petitioner wants this Court to quash believing it that he is the member of scheduled tribe. In the case of Kumari Madhuri Patil supra the appellant was aggrieved by action of the verification committee dated 26th June, 1992 which found that the community to which she belong was recognised as O.B.C. and not S.T. and therefore the certificates in respect of such community declaring her to be scheduled tribe was all cancelled. It was against that the writ petition was filed by her which was dismissed. Against the Division Bench judgment of the High Court, appeal was

preferred before the Hon'ble Supreme Court. Although, the Hon'ble Supreme Court has laid down detailed guidelines to be followed in cases where admissions have been wrongly secured on the strength of false caste certificate but at the same the time the appellant in that case was not granted any relief against cancellation of her admission to B.D.S. course and cancellation of her scheduled tribe certificate was upheld on the basis of which she secured admission to the B.D.S. course. In the present case too, there are numerous disputed questions of fact which can appropriately be gone into only by a civil Court. In fact, the kind of relief that has been prayed for in this petition can only be granted by the Civil Court.

In the facts of the present case, the writ petition is not the appropriate remedy. I therefore do not find any substance in the argument of the learned counsel for the petitioner.The writ petition is accordingly dismissed with no order as to costs.

(MOHAMMAD RAFIQ),J.